

SENATE BILL 2352

By Bunch

AN ACT to repeal portions of Chapter 403 of the Private Acts of 1949, as amended by Chapter 104 of the Private Acts of 1975, Chapter 5 of the Private Acts of 1977, Chapter 44 of the Private Acts of 1999, Chapter 94 of the Private Acts of 2006, and any other acts amendatory thereto, and to enact "The Meigs County Financial Management Act of 2007".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

**SECTION 1. Short title.** This act shall be known and may be cited as the "The Meigs County Financial Management Act of 2007."

**SECTION 2. Definitions.** As used in this act, unless the context otherwise requires:

- (a) "Committee" means the Meigs County financial management committee;
- (b) "Department" means the Meigs County finance department; and
- (c) "Director" means the director of the Meigs County finance department.

**SECTION 3. Finance department - general provisions.**

(a) There is hereby created the Meigs County finance department to administer the finances of the county for all funds, excluding school funds, of the various departments, agencies and boards which are handled by the county trustee.

(b) The finance department shall be responsible for purchasing, accounting, budgeting, payroll, cash management and other such financial matters of the county as herein provided.

(c) Upon approval of this act pursuant to Section 28 of this act, all employees within the purchase and finance office performing the functions of purchasing, payroll, accounting and budgeting in the various operating departments shall be transferred to the supervision of the director of finance, and such salaries, benefits and expenses

relating to such personnel shall be budgeted under the finance department, notwithstanding any other law to the contrary.

(d) The department shall administer all funds and functions prescribed by this act for all county departments, agencies, and officials, including the highway department.

(1) The department shall establish a system of fiscal management control, accounting, budgeting, purchasing, and cash management as herein provided.

(2) Such system shall conform to generally accepted principles of governmental accounting, shall be in substantial agreement with the recommendations of the national council of governmental accounting, and shall be in compliance with the rules and regulations established by the state comptroller of the treasury and state law.

#### **SECTION 4. Financial management committee - general provisions.**

(a) The Meigs County financial management committee is hereby created.

(b)

(1) The committee shall consist of the county mayor, supervisor of highways, and five (5) members elected by the county legislative body at its regular September session of each year or at any subsequent session.

(2) The five (5) members elected by the county legislative body need not be members of such body.

(c) Such committee shall elect its own chair and shall meet from time to time as it may deem necessary for the discharge of its duties as provided herein.

(d) The director shall be the ex officio secretary of such committee.

(e)

(1) The financial management committee shall establish and approve policies, procedures and regulations in addition to the specific provisions of this act, for implementing a sound and efficient financial system for administering the funds of the county.

(2) Such system shall include budgeting, accounting, purchasing, payroll, cash / investment management, debt management and such other financial matters necessary to an efficient system.

#### **SECTION 5. Special committees - general provisions.**

(a) The county legislative body may authorize the committee to assume the functions of any or all of the following special committees or the county legislative body may by resolutions create:

- (1) An investment / debt committee;
- (2) A purchasing committee; or
- (3) Any other committee for effective operation of county government.

(b)

(1) The special committees shall be composed of a minimum of five (5) members appointed by the county legislative body. The members of such committees need not be members of the county legislative body.

(c) The director shall be the ex officio secretary of each such committee.

(d) The finance committee shall establish and approve policies, forms and documents, procedures, and regulations necessary for the preparation of the annual operating and capital improvement budgets.

(e) The investment / debt committee shall establish and approve policies and procedures for cash management and investing idle cash funds in various investments as prescribed by law.

(f) The purchasing committee shall establish and approve policies and procedures for the purchasing of all supplies, equipment or goods for the county.

#### **SECTION 6. Director of finance - appointment and compensation.**

(a)

(1) The committee shall recommend a qualified (as outlined in the director of finance job description) candidate for approval by the simple majority of the full county legislative body.

(2) The committee may dismiss the director, subject to the approval by simple majority vote of the full county legislative body.

(3) The director shall for all purposes be an employee of the county.

(b) The compensation of the director shall be established by the committee, subject to the approval of the county legislative body. The salary shall not exceed the state minimum, mandated salary of the county trustee, unless approved by a two-thirds (2/3) majority of the full county legislative body.

#### **SECTION 7. Director - duties.**

(a) The director shall oversee the operation of the department in the functions established by this act, and shall be responsible for the implementation of the policies of the committee or such special committee established by the county legislative body.

(b) The director shall, among the director's duties, install and maintain a purchasing, payroll, budgeting, and accounting and cash financial management system for the county.

(c) The director shall assist other county officials and employees in achieving an efficient financial management system for the county.

(d) The director has the authority to hire personnel for the finance department; provided that the positions are funded in the annual budget and the personnel so hired meet the written job requirements as recommended by the director and approved by the finance committee.

(e) In the event of a vacancy in the position of director, the committee may appoint someone to the position of interim director to assume the duties of the director until a director is appointed and confirmed by the county legislative body. An interim director shall not serve longer than ninety (90) days consecutively without the approval of the county legislative body. The compensation of the interim director shall be set by the committee within the budget. The line item in the operating budget for the director may be used to compensate the interim director. The interim director need not have the qualifications of a director.

#### **SECTION 8. Director - deputy.**

(a) A person employed by the finance department shall be recommended by the director and approved by the finance committee to serve as deputy director of finance.

(b)

(1) The person employed for this position shall perform such duties and responsibilities as assigned by the director.

(2) In the absence of the director, the deputy director shall perform the duties of the director necessary to the continued operation of the department, including, but not limited to, the cosigning of warrants, payroll checks and purchase orders.

#### **SECTION 9. Director - bond.**

(a) The director shall execute a blanket bond in an amount of not less than fifty thousand dollars (\$50,000) for the faithful performance of the director's duties as director and of the department employees in accordance with the general law for such bonds.

(b) The cost of such bond shall be paid from funds appropriated to the department for such purpose.

(c) The amount of such bond may be increased subject to the approval of the committee and additional appropriations by the county legislative body.

(d) The bond shall be recorded in the office of the county register of deeds in the same manner as are the bonds of county officials.

#### **SECTION 10. Budget - preparation and finance committee review.**

(a) The finance committee in conjunction with the director shall, on or before February 1 of each year, prescribe the budgetary procedures, forms, calendar and other information as may be necessary to implement the budgetary procedures contained in this act.

(b) Each department or office of county government shall submit on request of the finance committee a proposed budget for the succeeding fiscal year and such other budgetary information requested by the director or the finance committee.

(c)

(1) The director shall prepare from the information submitted to such director a consolidated budget document.

(2) Such document shall show by item the amounts estimated by the various departments and officials to be required for the efficient operation of the county government from the county general fund, the debt service funds, highway funds, and all other funds.

(3) Such document shall show an estimate of the revenues to be received by each of the funds during the next fiscal year and an estimate of the unencumbered fund balance of each of such funds at the beginning of the fiscal year.

(d)

(1) The director shall file the consolidated budget with the finance committee.

(2) The finance committee shall review and present the recommended budget to the members of the county legislative body at least ten (10) days prior to the July meeting.

(3) Such budget shall contain an itemized and classified plan of all proposed expenditures and estimated receipts for the ensuing fiscal year as submitted by each department, office or agency and recommended by the finance committee, and shall conform to the uniform classification of accounts established by the director in accordance with the prescribed state uniform accounting system.

(4) The finance committee shall fully provide in the budget for all requirements for debt service, interest and bond maturities and for any cash deficit in any fund at the beginning of the fiscal year and shall propose a tentative tax rate to fund such budget.

#### **SECTION 11. Budget - hearings - supporting documents - county action.**

(a)

(1) At least ten (10) days before the proposed budget is to be presented to the legislative body for approval, the finance committee shall cause a synopsis of the proposed budget to be published in a newspaper of general circulation in the county.

(2) Such publication shall also contain a notice of a public hearing to be conducted by the finance committee at which time any citizen of the county upon five (5) days written request shall have the right to appear and state his or her views on the budget.

(b) The finance committee shall present the budget to the county legislative body at the regular July meeting each year or at a special session called for this purpose prior to the regular July meeting.

(c) The proposed budget shall be accompanied by a budget message explaining the financial program and outlining the services, work and activities to be financed by the proposed budget and a brief discussion of the means proposed for financing the expenditure program set forth in the budget.

(d) With the proposed budget, the finance committee shall deliver to the county legislative body a budget appropriation resolution and a tax levy resolution.

(e)

(1) The county legislative body may alter or revise the proposed budget except as to provision for debt service requirements and for other expenditures required by law.

(2) The county legislative body shall finally adopt a budget in July.

(f)

(1) After the adoption of the budget, any county department, agency or official shall be entitled to a hearing before the county legislative body to justify any proposed additional requests or budget estimates.

(2) The director may make quarterly allotments to any department, agency or official seeking a budget hearing in an amount not in excess of that approved in the budget for such quarter.

(3) Upon amendment of the budget, the director shall make a supplemental allotment or impound the funds of any department, agency or official to bring such appropriations in line with the amended budget.

(g) The budget, the appropriation resolution, and the tax levy resolution, as adopted, shall be spread upon the minutes of the county clerk.

**SECTION 12. Appropriations - later modifications - impounding.**

(a) The appropriations made in the appropriation resolution, or any amendment thereto, shall constitute the limit to expenditures for the various purposes and from the several funds of such county for the fiscal year covered by the resolutions, and no expenditure shall be made or obligation created in excess of such limitation.

(b) Any resolution presented to the county legislative body in any fiscal year, after the original appropriation resolution has been adopted and the tax rate for the year fixed by the county legislative body, which provides for an appropriation, shall specifically provide by tax levy sufficient revenues, or designate the source of funds to meet expenditures to be made in consequence of such additional appropriation.

(c)

(1) If at any time during the fiscal year it shall become apparent that the revenues of any of the county's funds, together with its unencumbered cash balance at the beginning of such year, will not be sufficient to equal the amount of the original appropriations, it shall be the duty of the director to impound the appropriations from such fund in such amount as shall be necessary to balance such account.

(2) Upon the written approval of the committee, such impounded funds shall be released.

**SECTION 13. Expenditures - minor adjustments.**

(a) The appropriations made by the county legislative body shall constitute authorization for the expenditures contained therein unless otherwise limited by the county legislative body.



(b) Expenditures may be made and obligations created against any appropriation to an aggregate total of the amount appropriated.

(c) The expenditures and encumbrances against the amounts appropriated shall be made only upon an order or authorization issued by the department.

(d) No expenditures made or obligations created in any manner shall be valid or binding against the county except as provided by the provisions of this act.

(e)

(1) The director, upon the written consent of any official or head of any department or division which may be affected, may make transfers and adjustments equal to or less than one thousand dollars (\$1000), excluding personnel or fund balance.

(2) Any other transfers or adjustments shall be submitted to the finance committee for its recommendation to the county legislative body.

#### **SECTION 14. Monthly reports.**

(a)

(1) The director shall make a report at the end of each month showing the condition of the budget.

(2) Such report shall show for each item of appropriation, or allotment thereof, the total expenditures for the month and the year to date, the amount of outstanding encumbrances and the amount of the unencumbered balance.

(3) Such report shall also show for each fund an itemized statement of the revenues and receipts estimated for the year, the amount of the collections of each item for the month and the year to date and the unrealized portion of the estimate.

(b) Each department head, elected official and board member shall be furnished copies of monthly reports for their respective departments as soon as the same are available.

(c)

(1) The most recent of such reports shall be presented by the director at each regular session of the county legislative body.

(2) At such time, the director shall advise the county legislative body of the condition of the budget, of any adjustment or reduction of appropriations which should be made, and shall recommend any other action which, in the director's opinion, the county legislative body should take in order that the financial condition of the county is not impaired.

#### **SECTION 15. Accounting system - pre-audit of invoices, etc.**

(a) There shall be set up and maintained in the department a system of fiscal procedure, control and centralized accounting which shall be under the administrative control and direction of the director. The procedures and records shall be maintained in accordance with provisions of this act.

(b)

(1) Before any obligation against the county shall be paid or any disbursement warrant or voucher issued, a detailed invoice, receivable copy of the purchase order, or such document indicating receipt of merchandise or service shall be approved by the head of an office, department or agency for which the obligation was made and shall be filed with the director.

(2) The director shall establish a system for making a careful pre-audit of such invoice, purchase order, or other documents, including a comparison with any encumbrance document previously posted or filed authorizing such obligation, and shall approve for payment only such items as appear to be correct, properly authorized, and not exceeding the otherwise unencumbered balance of the allotments or appropriations against which they are chargeable.

(3) Disbursement warrants shall be promptly prepared for all such approved obligations by the director, signed in accordance with Section 16 of this act and mailed or delivered to the payees thereof.

#### **SECTION 16. Disbursement warrants**

(a) All disbursement warrants drawn on the county trustee for the obligations of all county departments, agencies, and officials, including the county mayor and the county highway department, shall be signed as provided herein.

(b)

(1) The disbursement warrants shall be prepared in the finance department and provided to each relevant county department for signing.

(2) Upon the signing of such warrant by the department head or, in his or her absence, the county mayor or chair of the finance committee, the person signing the disbursement warrant shall return the warrant to the finance director for such director's signature as a cosigner and for filing and mailing from the finance department.

(3) A duplicate copy of all disbursement warrants, with all original invoices and other supporting documents attached thereto, shall be kept on file in the office of the director.

#### **SECTION 17. Payroll account.**

(a) The committee shall maintain a special county payroll account at a bank in which disbursement warrants for the total of each payroll shall be deposited and against which individual net earning checks may be issued to each of the county employees.

(b) The committee may authorize the issuance of such payroll checks on the signature of the director and, in such event, the depository bank shall be so instructed.

#### **SECTION 18. Director as purchasing agent - optional purchasing department.**

(a) The director or a deputy appointed by the director shall serve as the county purchasing agent and shall assist the committee in developing policies and procedures for implementing an economical and efficient purchasing system.

(b) The following shall be the responsibility of the director:

(1) The contract, purchase, or any obligation of the county for supplies, material, equipment, contractual services, rental of machinery, buildings, or equipment, transfer of materials, supplies, and equipment between county offices or agencies;

- (2) Supervision of storeroom or warehouse;
- (3) Contracts for building construction and the purchase of land;
- (4) Public sale of all surplus materials, equipment, buildings and land;

and

- (5) Any other created obligation of the county.

#### **SECTION 19. Purchasing system.**

(a) The committee, with the assistance of the purchasing agent, shall establish a purchasing system for the county.

(b) Such system shall provide, among other procedures, the following:

(1) Review of all contracts or purchases for biddable supplies, materials, equipment, and other needs of the county, shall be made by the purchasing agent;

(2) No purchase or contract shall be made when the bid prices exceed the current market price for the same merchandise or service;

(3) Purchases and contracts shall be awarded based on the lowest and best bid;

(4) Specifications development shall be made by the department, agency or official to receive the merchandise, construction or service;

(5) The purchasing agent shall:

(A) Review specifications and changes to allow for maximum competition of prospective bidders;

(B) Prepare formal and informal bids;

(C) Collect sealed bids;

(D) Open bids through a procedure open to the public;

(E) Evaluate, compare and submit bids for approval by the committee, if so deemed by the committee;

(F) Issue purchase orders and contracts; and

(G) Verify receiving the merchandise or service;

(6) The director shall:

(A) Accept requisitions by the department, agency or official, and, if such supplies are not currently on hand, transmit such requisition to the purchasing agent;

(B) Verify budget appropriations before authorizing a purchase;

(C) Approve invoices for payment; and

(D) Pay invoices and obligations of the county as provided herein;

and

(7) Emergency purchases, total cost bidding, blanket purchases for small orders, grouping of purchases of the various departments, and other methods for receiving the most competitive price and best bid. Emergency purchases shall be limited to needs arising, which are not normally foreseeable. Emergency purchases shall not be permissible if a department or agency fails to properly plan for the need, proper purchasing procedures, and delivery time.

## **SECTION 20. Bidding.**

(a) The committee shall authorize the dollar limitation when formal competitive bids are required but not to exceed the amount as authorized by state law.

(b) Subject to the policies and regulations of the committee, "biddable items" means any need of the county where more than one (1) bidder or contractor in the county's trade area can provide the material or service. Specifications shall not be written to exclude vendors and contractors or limit the bidding to a specific vendor or contractor.

(c) The county shall be liable for the payment of all purchases of supplies, materials, equipment and contractual service made in accordance with the provisions of this act but shall not be liable for the payment of such purchases made contrary to its provisions unless such item is specifically approved by the committee.

## **SECTION 21. Conflicts of interest.**

(a) The director, purchasing agent, members of the committee, members of the county legislative body, other officials, employees, members of the board of education or highway commission shall not be financially interested or have any personal beneficial

interest, either directly or indirectly, in the purchase of any supplies, materials or equipment for the county.

(b) No firm, corporation, partnership, association or individual furnishing any such supplies, materials or equipment, shall give or offer, nor shall the director or purchasing agent or any assistant or employee accept or receive directly or indirectly, from any person, firm, corporation, partnership or association to whom any contract may be awarded, by rebate, gift or otherwise, any money or other things of value whatsoever, or any promise, obligations or contract for future reward or compensation.

**SECTION 22. Committee members' compensation.** The county legislative body shall set the compensation based on the service and time rendered in implementing the provisions of this act for members of the various committees created herein.

**SECTION 23. County employee unaffected.**

(a) Notwithstanding any provision of this act, each department, agency or official shall have the authority to hire personnel and set salaries and to determine the needs for its use, all subject to budget limitations and the availability of funds.

(b) The authority of the committee, director or purchasing agent shall be limited to the provisions of this act and such policies necessary to implement the provisions of this act. They shall not have the authority to veto the hiring and dismissal of personnel of the various county departments, agencies, or officials or set salaries nor determine the needs of such departments.

**SECTION 24. Violations - penalties.** Any official or employee of the county, or of any institution or agency thereof, who shall fail or refuse to perform the duties required of such person by this act, or who shall fail or refuse otherwise to conform to the provisions of this act shall be guilty of neglect of duty and shall be subject to the provisions of the general law for removal of public officials from their office or position and shall also be subject to a civil monetary penalty not to exceed fifty dollars (\$50) if such civil monetary penalty is imposed by the county legislative body pursuant to law.

**SECTION 25. Approval / implementation of private act.**

(a) Upon approval of this act pursuant to Section 28, the county legislative body shall appoint members of the committee at the next meeting of such body.

(b) Within thirty (30) days after such appointment, the committee shall meet, elect a chair, and start the process for hiring a director.

(c) The committee shall also develop plans for implementing the financial management system that will begin no later than one hundred eighty (180) days after the effective date of this act.

(d) After an implementation plan has been developed and approved by the committee, a report shall be submitted to the county legislative body within one hundred eighty (180) days of the effective date of this act

**SECTION 26. Repeal of prior acts.** Any or all parts of Chapter 403 of the Private Acts of 1949, as amended by Chapter 104 of the Private Acts of 1975, Chapter 5 of the Private Acts of 1977, Chapter 44 of the Private Acts of 1999, Chapter 94 of the Private Acts of 2006, and any other acts amendatory thereto, that prescribe fiscal procedures in direct conflict with the provisions of this act are hereby repealed.

**SECTION 27. Severability.** If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

**SECTION 28. Local approval.** This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of Meigs County. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body and certified to the secretary of state.

**SECTION 29. Effective date.** For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 28 of this act.